

Remarks:

In the August 24, 2004, Office Action, the Examiner indicated that newly added Claims 125-143 were directed to an invention that is independent or distinct from the invention originally claimed, and withdrew them from consideration. On the merits, Claims 1, 2, 6-9, 14, 21, 23, 41, 42, 46-49, 54, 61, 110-121 and 144-147 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Branson (U.S. Patent No. 4,927,271). Claims 21, 23, 41, 42, 46-49, 54, 61, 104, 107-109, 113-121, and 144-147 were rejected under 35 U.S.C. Section 102(e) as being anticipated by Thieman et al. (U.S. Patent No. WO 98/45180). Claims 1, 2, 6-9, 14, 18, 19, 75, 79, 82-86, 110, 122, 144, and 145 were rejected under 35 U.S.C. Section 102(b) as being anticipated by Herber et al. (U.S. Patent No. 5,525,363).

Claims 16 and 93 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Herber et al. in view of Hayashi et al. (U.S. Patent No. 6,074,097). Claim 56 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Thieman et al. in view of Hayashi et al. Claims 58 and 59 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Thieman et al. in view of May (U.S. Patent No. 5,725,312). Claims 75, 79, 82-86, and 122-124 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Thieman et al. in view of Hustad et al. (U.S. Patent No. 5,456,928).

Applicants have chosen to discontinue the appeal filed in the present patent application and to return the patent application to prosecution in an earnest attempt to

move the case to allowance by streamlining it and further distinguishing the remaining claims over the prior art cited in the August 24, 2004, Office Action. Accordingly, Claims 21, 23, 41, 42, 46-49, 54, 56, 58, 59, and 61 have been cancelled without prejudice. Independent Claims 1, 75, 104, 125, and 144 have been amended to more particularly claim the present invention. The amendment to independent Claim 125 is intended in part to overcome the Examiner's indication that it (and the claims thereupon) was directed to an invention independent or distinct from the invention originally claimed by specifically stating that it is directed to a single sheet of web material. No new matter has been added by the amendments.

Applicants regard as their invention a reclosable bag formed of a single sheet of web material having a fold therein which forms the top of the bag. Two areas of structural weakness are located on opposite sides of the fold. A reclosable fastener has a skirt structure including a distal portion which is coupled to the web material, and at least part of the reclosable fastener extends past the two areas of structural weakness and into the fold. The portion of the web material forming the fold and between the two areas of structural weakness create a portion which may be removed, with the part of the reclosable fastener which extends beyond the areas of the structural weakness being exposed and not covered by or located between portions of the web material, thereby making the fastener easy to access manually to obtain access to the contents of the bag and to reseal the bag. The bag is filled through the ends of the sheet of web material which are distal from the fold. The amendments to the claims make clear the fact that the

same sheet of web material which forms the fold also forms the bag and the opening in the bag. Applicants believe that this invention is not taught or suggested in any of the references provided by the Examiner in the August 24, 2004, Office Action, or, indeed, by any other reference of which Applicants are aware.

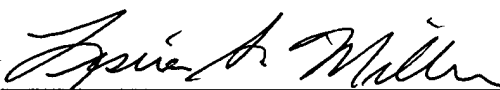
Neither the bag taught by Branson nor the bag taught by Thieman et al. is constructed of a single sheet of web material, which is specifically required by each of the independent claims remaining in the present patent application. The Branson bag has a separate hooded enclosure 14 which is mounted on the bag 10, and the Thieman et al. bag has a separate tamper evident sheet 60, which is mounted on the plastic bag 11. Additionally, neither of these bags have an opening at the bottom which is distally removed from the fold, and claim language has been modified at the Examiner's suggestion to more clearly indicate both the location of the opening and the fact that filling takes place through the opening. The independent claims are thus believed to be patentable over the Branson and Thieman et al. references.

Likewise, the claims clearly define over the Herber et al. reference, in which the perforation is not located with respect to the fastener structure in a manner which allows the reclosable fastener to extend past the areas of structural weakness. In contrast, in the Herber et al. reference, the areas of structural weakness (the lines of perforation 254) are clearly well above the male and female closure members (the male profile 218 and the female profile 220). Thus, the independent claims all clearly define the present invention over the Herber et al. reference.

Finally, the Hayashi et al. and May references are cited as a secondary references to teach areas of weakness of different types and perforation strips, respectively, and fail to fill in the deficiencies of the other references or to teach the construction of the invention as presently claimed.

Accordingly, Applicants believe that Claims 1, 2, 6-9, 14, 16, 18, 19, 75, 79, 82-86, 93, 104, and 107-147 are patentable at this time. These claims remain pending following entry of this Amendment, and are believed to be in condition for allowance at this time. As such, Applicants respectfully request entry of the present Amendment and reconsideration of the application, with an early and favorable decision being solicited. Should the Examiner believe that the prosecution of the application could be expedited, the Examiner is requested to call Applicants' undersigned attorney at the number listed below.

Respectfully submitted:

BY   
Leslie S. Miller  
Attorney for Applicants  
Registration No. 30,662

Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 2100  
Milwaukee, WI 53202

(414) 298-8321

Customer No. 22922